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10/628,248	07/29/2003	Stephen Mark Mueller	P23666	5445
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EXAMINER BRUCKART, BENJAMIN R				
ART UNIT 2146		PAPER NUMBER		
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/628,248

Applicant(s)

MUELLER ET AL.

Examiner

BENJAMIN R. BRUCKART

Art Unit

2146

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 9-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 9-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date: _____

Detailed Action

Claims 1-7, 9-21 are pending in this Office Action.

Claim 8 remains cancelled.

Response to Arguments

Applicant's arguments, see the appeal brief, filed 3-17-08, with respect to the rejection(s) of claim(s) 1-7, 9-21 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made. See remarks below.

Applicant's invention as claimed:

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-7, 9; 10-12; and 13-15 are directed to statutory subject matter as a machine that is embodied between client devices and server devices.

Claims 16-21 are directed to the statutory category of a process in which the steps of the invention are performed.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(c) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 16-17, 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent Publication 2003/0028621 by Furlong et al in view of U.S. Patent Publication 20040083291 by Pessi et al.

Regarding claim 16, the Furlong reference teaches:

a method for incorporating presence into a telecommunications environment (Furlong: page 1, para 7 teaches presence information; page 2, para 19-20), the method comprising:

- receiving a session request from a session initiator in response to a user instruction (Furlong: page 2, para 20; the PLAS; request for information para 21; page 8, para 96);
- generating a request for presence information in response to the received session request (Furlong: page 2, para 20; page 8, para 96);
- sending the request for presence information to a presence platform to obtain presence information for another telecommunications user (Furlong: page 2, para 20; the PLAS; request for information para 21);
- receiving preferred treatment information from the presence platform (Furlong: page 8, para 94-95); and
- initiating a telecommunications session with the other user in response to the obtained presence information and the preferred treatment information (Furlong: page 8, para 94-95).

The Furlong reference does not teach an intermediate between the presence server and user as claimed as the presence platform.

The Pessi reference teaches a presence platform (Pessi: Fig. 3, tag 308) that lies between devices and the presence server for intercepting adapting and relaying messages from the presence server (Pessi: page 5, para 47).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by Furlong to include the presence platform as taught by Pessi in order to intercept, adapt, and relay messages from the presence server (Pessi: page 5, para 47).

Regarding claim 17, the method of claim 16, further comprising:

forwarding preferred session parameters to the presence platform (Furlong: page 8, para 93-95); and

determining the presence information based on the preferred session parameters (Furlong: page 8, para 93-95).

Regarding claim 20, the method of claim 16, in which the preferred session parameters comprise at least one of session type, urgency, and subject (Furlong: page 8, para 93 where the event is a type or Page 8, para 96 wherein the grouping of users is a type of session).

Regarding claim 21, the method of claim 16, further comprising:

requesting additional information about the session request (Furlong: page 8, para 93);
and

processing the session request based upon the additional information (Furlong: page 8, para 93).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6; 9-11; 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent Publication 2003/0028621 by Furlong et al in view of U.S. Patent Publication 20040083291 by Pessi et al.

Regarding claim 1, the Furlong reference teaches:

a system for providing a presence component in a telecommunications network in which a session to a session terminator is requested by a session initiator upon receiving an instruction from a user (Furlong: page 1, para 7 teaches presence information; page 8, para 94-96 shows third party users wanting to send messages to a subscriber), the system, comprising;

a presence server configured to receive a request for presence information from a requestor (Furlong: page 2, para 20; the PLAS; request for information para 21), which is configured to receive a session request from the session initiator and to generate the request for presence information (Furlong: page 2, para 24); processing the request by comparing the session initiator's identity to preferences of the session terminator and sending a preferred treatment to the requestor (Furlong: page 2, para 24; recipient identity; page 3, para 30)

wherein the session is initiated based upon a preferred treatment (Furlong: page 8, para 94-95).

The Furlong reference does not teach an intermediate between the presence server and user as claimed as the requestor.

The Pessi reference teaches a requestor (Pessi: Fig. 3, tag 308) that lies between devices and the presence server for intercepting adapting and relaying messages from the presence server (Pessi: page 5, para 47).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by Furlong to include the requestor as taught by Pessi in order to intercept, adapt, and relay messages from the presence server (Pessi: page 5, para 47).

Regarding claim 2, the system of claim 1, further comprising:

a collector configured to collect information from the session initiator (Furlong: page 2, para 23; logging, tracking and accounting; or page 4, para 44).

Regarding claim 3, the system of claim 2, in which the session initiator further comprises a user agent client that forwards the request to the requestor (Furlong: page 8, para 96; wife sends request to the PLAS), and a call user agent client that initiates the session (Furlong: page 8, para 96; message is delivered).

Regarding claim 6, the system of claim 2, in which the requestor is further configured to request additional information about the session request and process the session request based upon the additional information (Furlong: page 8, para 93).

Regarding claim 4, the system of claim 1, in which the session initiator further comprises a call user agent client that initiates the session and a trigger generator that generates a trigger message (Furlong: page 8, para 93).

Regarding claim 9, the system of claim 1, further comprising:

- a session controller configured to control initiation of the session (Furlong: page 2, para 23-24).

Regarding claim 10, the Furlong reference teaches:

- a system for providing a presence component in a public switched telephone network the system (Furlong: page 1, para 7 teaches presence information; page 2, para 19; telephonic), comprising:

- a service control point that receives a query from a service switching point in response to a call origination from a calling party to a called party, the query identifying the calling party and the called party (Furlong: page 2, para 20; the PLAS); and

- a presence server that receives a request for presence information from the service control point (Furlong: page 2, para 24; the preference engine), the request identifying the calling party and the called party (Furlong: page 2, para 20; the PLAS; request for information para 21; page 2, para 24), the presence server processing the request by comparing the calling party identity to

preferences of the called party and returning a preferred treatment to the service control point (Furlong: page 2, para 24; recipient identity; page 3, para 30),

wherein the service control point instructs the service switching point to establish the call when the preferred treatment indicates that the called party will accept the call (Furlong: page 8, para 94-95).

The Furlong reference does not teach an intermediate between the presence server and user as claimed as the service control point.

The Pessi reference teaches a service control point (Pessi: Fig. 3, tag 308) that lies between devices and the presence server for intercepting adapting and relaying messages from the presence server (Pessi: page 5, para 47).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by Furlong to include the service control point as taught by Pessi in order to intercept, adapt, and relay messages from the presence server (Pessi: page 5, para 47).

Regarding claim 11, the system of claim 10, further comprising:

an intelligent peripheral that collects additional information from the calling party (Furlong: page 4, para 44),

wherein the presence server processes the request based on the additional information (Furlong: page 4, para 44).

Regarding claim 13, the Furlong reference teaches:

a system for providing a presence component in a wireless telecommunications network in which a session is requested by a mobile device (Furlong: page 1, para 7 teaches presence information; page 8, para 94-96 shows third party users wanting to send messages to a subscriber), the system comprising:

a requestor configured to receive a session request from the mobile device and to generate a request for presence information (Pessi: page 4, para 41; page 5, para 46, 49); and

a presence server configured to receive the request for presence information (Furlong: page 2, para 20; the PLAS; request for information para 21) and to process the request by

comparing the mobile device's identity to preferences of a session terminator and sending session set up information to the requestor to set up the session (Furlong: page 2, para 24),

wherein the session is initiated based upon the session set up information (Furlong: page 8, para 94-95).

The Furlong reference does not teach an intermediate between the presence server and user as claimed as the requestor.

The Pessi reference teaches a requestor (Pessi: Fig. 3, tag 308) that lies between devices and the presence server for intercepting adapting and relaying messages from the presence server (Pessi: page 5, para 47).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by Furlong to include the requestor as taught by Pessi in order to intercept, adapt, and relay messages from the presence server (Pessi: page 5, para 47).

Regarding claim 14, the system of claim 13, wherein the requestor resides in the wireless network, the requestor being further configured to request preferred session parameters from the mobile device, the requestor forwarding the session request, including the preferred session parameters to the presence server (Pessi: pages 4-5, para 45).

Claims 5, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent Publication 2003/0028621 by Furlong et al in view of U.S. Patent Publication 20040083291 by Pessi et al in further view of U.S. Patent No. 20040131042 by Lillie et al.

Regarding claim 5, the modified Furlong reference teaches the system of claim 4. The modified Furlong reference fails to state an INVITE message.

However, the Lillie reference teaches a session initiator initiates the session by sending an INVITE message to the session terminator based upon the preferred treatment (Lillie: page 1, para 9; page 3, para 34) in order to establish a connection between two endpoints in a session (Lillie: page 1, para 9).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by modified Furlong to include INVITE messages as taught by

Lillie in order to establish a connection between two endpoints in a session (Lillie: page 1, para 9).

Regarding claim 7, the modified Furlong reference teaches the system of claim 1. The modified Furlong reference fails to state an INVITE message.

However, the Lillie reference teaches a session initiation protocol (SIP) proxy server including service logic that receives the session request from the session initiator (Lillie: page 4, para 42), wherein the SIP proxy server initiates the session by sending an INVITE message to the session terminator based upon the preferred treatment (Lillie: page 4, para 42) in order to establish a connection between two endpoints in a session (Lillie: page 1, para 9).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by modified Furlong to include INVITE messages as taught by Lillie in order to establish a connection between two endpoints in a session (Lillie: page 1, para 9).

Claims 12, 15, 19 are rejected under 35 U.S.C. 103(a) as being unpatentable by U.S. Patent Publication 2003/0028621 by Furlong et al in view of U.S. Patent Publication 20040083291 by Pessi et al in further view of U.S. Patent No. 20040203644 by Lei et al.

Regarding claim 12, the modified Furlong reference the system of claim 10. The modified Furlong reference fails to teach notifying the calling party.

However, the Lei reference teaches an intelligent peripheral that informs the calling party when the preferred treatment indicates that the called party does not accept the call, and the service control point does not instruct the service switching point to establish the call when the preferred treatment indicates that the called party does not accept the call (Lei: page 4, para 47) in order to let the caller establish a one way session and leave a message or terminate the session (Lei: page 4, para 47).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by modified Furlong to include a notifying a rejected call as taught by Lei in order to let the caller establish a one way session and leave a message or terminate the session (Lei: page 4, para 47).

Regarding claim 15, the modified Furlong reference teaches the system of claim 14, in which the mobile device comprises:

a user agent client receiving the session setup information from the requestor (Pessi: page 5, para 45-46); and

a call user agent client that initiates the session based on the session set up information, which is received from the user agent client (Pessi: page 5, para 49).

The modified Furlong reference fails to state prompting the user for information.

However, the Lei a user agent client that forwards the session request to the requestor and prompts a user to enter the preferred session parameters (Lei: page 4, para 45-47),

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by modified Furlong to include a prompting a user as taught by Lei in order to let a user decide whether it wants to establish a accept or reject a session request (Lei: page 4, para 47).

Regarding claim 19, the modified Furlong reference teaches the method of claim 16 and obtained presence information indicates that the session terminator is unavailable or busy (Pessi: page 5, para 49).

The modified Furlong reference fails to state notifying the initiator the session was rejection.

The Lei reference teaches the initiating further comprises not initiating the session and informing the session initiator that the session request was rejected (Lei: page 4, para 47) in order to let the caller establish a one-way session and leave a message or terminate the session (Lei: page 4, para 47).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by modified Furlong to include a notifying a rejected call as taught by Lei in order to let the caller establish a one way session and leave a message or terminate the session (Lei: page 4, para 47).

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable by unpatentable by U.S. Patent Publication 2003/0028621 by Furlong et al in view of U.S. Patent Publication 20040083291 by Pessi et al in further view of U.S. Patent No. 7123707 by Hiri et al.

Regarding claim 18, the modified Furlong reference teaches the method of claim 16. The modified Furlong reference fails to teach voicemail.

However, the Hiri reference teaches obtained presence information comprises instructions to forward to voice mail (Hiri: col. 3, lines 30-60), and

in which the initiating further comprises connecting to the voice mail (Hiri: col. 7, lines 47- col. 8, line 3) in order to communicate without interrupting a previous session (Hiri: col. 1, lines 45-57).

It would have been obvious at the time of the invention to one of ordinary skill in the art to create the system as taught by modified Furlong to include voicemail as taught by Hiri in order to let the caller leave a message if a session isn't established and not interrupt current sessions (Hiri: col. 1, lines 45-57).

Remarks

The examiner has withdrawn finality and reopened prosecution based on applicant's arguments in the appeal brief.

A new grounds of rejection is being made to address the limitations in question. The claims are still too broad in breadth.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Benjamin R. Bruckart whose telephone number is (571) 272-3982. The examiner can normally be reached on 9:00-5:30PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeff Pwu can be reached on (571) 272-6798. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2146

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Benjamin R Bruckart
Examiner
Art Unit 2146

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